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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 August 1996, at 10 a.m.

Chairman: Mr. EIDE

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GE.96-13257 (E)

The meeting was called to order at 10.05 a.m.

ORGANIZATION OF WORK

1. The CHAIRMAN informed the members of the Sub-Commission of the recommendations made by the Bureau concerning organization of work. Following various suggestions and proposed amendments by members of the Sub-Commission, the agenda was revised in the following manner: a new sub-item (a) entitled "Thirtieth anniversary of the adoption of the International Covenants" was to be inserted under item 16, and a new sub-item (c), entitled "The right to leave any country, including one's own, and to return to one's country", was included under item 18. The Bureau also recommended that the question of the violation of the human rights of journalists and human rights activists should be discussed under the relevant agenda items. If there was no objection, he would take it that the Sub-Commission wished to adopt the agenda as revised, which would be issued as document E/CN.4/Sub.2/1996/1/Rev.1.

2. It was so decided.

3. The CHAIRMAN said that the Bureau had also drawn up a provisional timetable for the consideration of agenda items for the entire session; it appeared on the reverse side of document E/CN.4/Sub.2/1996/OD.2. If he heard no objection, he would take it that the Sub-Commission wished to adopt the proposed timetable.

4. It was so decided.

5. The CHAIRMAN said that, as in previous years, the Bureau was recommending the establishment of a sessional working group on the administration of justice and the question of compensation under item 10. Following the established procedure, the Group would be chaired by its Chairman/Rapporteur, Mr. Joinet, and the regional groups were invited to nominate the other members immediately.

6. Mr. JOINET expressed the hope that, given the work already completed, the regional groups would re-elect the outgoing members, which would enable the Working Group not to have to recommence its consideration of certain questions from scratch. He recalled that all members of the Sub-Commission could participate in the Working Group and make statements.

7. The CHAIRMAN said that, in accordance with established practice, the Bureau recommended that the following special rapporteurs, who were no longer members of the Sub-Commission, should be invited to present their reports: Mr. Despouy (items 8 and 10 (a)) and Ms. Chavez (item 15). The Bureau also recommended that the Sub-Commission should invite the Chairman of the fifty-second session of the Commission on Human Rights, Mr. Vergne Saboia, to present the Commission's work to the Sub-Commission. The Bureau regretted to inform the Sub-Commission that the report of Mr. Al-Khasawneh on human rights and population transfer could not be submitted at the current session due to the lack of resources required to hold the seminar on population transfer. The Bureau expressed its concern and emphasized the urgent need to make the necessary resources available for that purpose.

8. Concerning the working methods of the Sub-Commission, he drew attention to paragraphs 9 to 20 of the annotations to the provisional agenda (E/CN.4/Sub.2/1996/1/Add.1) and recalled the decisions taken by the Sub-Commission in its resolution 1992/8 with regard to deadline for the submission of draft resolutions or decisions (principle No. 12), the list of speakers (principle No. 15) and the order of statements (principle No. 14). With regard to speaking time, the Bureau recommended that a maximum of 15 minutes should be allocated for each item to members of the Sub-Commission and special rapporteurs, with the rapporteurs dividing that time between the introduction of the report and the concluding remarks. Government observers would generally have a maximum of 10 minutes, with 5 minutes for statements made immediately before voting on a resolution when the country was implicated; 3 minutes at the end of the consideration of the respective agenda item and for a first statement equivalent to a right of reply; and, if necessary, 2 minutes for a second such statement. He would none the less allow observers to exercise their right of reply at the end of the day should it really be necessary. The speaking time for observers from non-governmental organizations (NGOs) as well as intergovernmental organizations, United Nations bodies, specialized agencies, national liberation movements and other organizations would also be limited, as for Government observers, to 10 minutes. The 10 minutes for all observers might, however, be reduced whenever a great number of speakers had been registered under a particular item. He drew the attention of the Sub-Commission to speaking times under item 6 in particular, on which the Bureau had decided to allocate a speaking time of 7 minutes for each observer, given the high number of participants wishing to make statements on that item.

9. The Bureau had been invited to hold a joint meeting with the Bureau of the Committee on the Elimination of Racial Discrimination to discuss any matters of common concern. Given the current grave financial situation of the United Nations, the Bureau had been informed that no extended or additional meetings would be provided.

10. Mr. JOINET said the financial difficulties of the United Nations were often referred to, but only too rarely was it mentioned that those difficulties were due in part to the fact that some States were not paying their dues. Perhaps the speaking time of the observers from those States should be limited.

11. After a discussion in which Mr. Khalifa, Mr. Fan Guoxiang and Mrs. Warzazi took part, the Sub-Commission decided that the Chairman should be flexible about the speaking time given to members of the Sub-Commission during consideration of agenda item 6.

12. Mrs. WARZAZI wondered whether, to save time, the Sub-Commission should not avoid submitting draft resolutions on questions that were already the subject of consideration by the Commission on Human rights, and opt for resolutions which dealt only with new developments that had occurred between the Commission's session and that of the Sub-Commission.

13. Following a request by Mr. JOINET, endorsed by Mr. El-HAJJE, that the date for voting on draft resolutions considered under agenda item 6 should be postponed, as the item concerned particularly important questions and

consideration of the texts demanded time, and after an exchange of views, the CHAIRMAN proposed that the afternoon of 19 August should be set aside for that occasion, it being understood that flexibility was still possible as long as the voting did not take place after 23 August.

14. It was so decided.

15. The question of the deadline for the submission of draft resolutions was raised by Mrs. DAES, who said that the texts could not be prepared before they had been the subject of a discussion. Since, as Mr. ALFONSO MARTÍNEZ said, the problem actually concerned only agenda item 14, and because, as several members of the Sub-Commission had pointed out, both firmness and flexibility were needed, the CHAIRMAN proposed that the three-day rule should be adhered to, except for particularly difficult cases, for which that deadline might be shortened.

16. It was so decided.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (E/CN.4/Sub.2/1996/9 and E/CN.4/Sub.2/1996/32)

17. Mr. VITTORI (Pax Christi International) said that the violation of the inalienable rights of just one person infringed the rights of all and contained the seeds for more massive violations. The international community had remained powerless in the face of the intolerable acts committed in the territory of the former Yugoslavia, which people had none the less known of and denounced. With the derisory amount allocated to the protection of human rights, given the magnitude of the undertaking, the United Nations was necessarily limited in its ability to meet the needs. The implementation of its founding principles and of the standards by its various bodies was encountering resistance from Powers whose interests did not necessarily coincide with those of the societies they claimed to represent. It was therefore unjust to blame a community, race, people or country by associating them with people or oligarchies who exercised abusive power over them for a certain period of time. Strict implementation of the resolutions against Iraq, which resulted in cruel suffering by that country's population, was in contrast with the small amount of attention given to resolutions on the Israeli-occupied Arab territories or the occupation of East Timor by the Indonesian Army.

18. His organization regretted that it had taken the death of a dozen political prisoners before the Turkish authorities had made the conditions of detention of those detainees more humane and that a procession reminiscent of an earlier age had endangered social peace in Northern Ireland. He welcomed the courageous struggles being waged by Mrs. Suu Kyi in Burma and Mrs. Sukarnoputri in Indonesia, and welcomed the birth of a movement to support the claims of landless Brazilian peasants as well as the hopes emerging for democracy in Mexico. Pax Christi was concerned by the repressive trend under way in Tunisia and joined the protests of a number

of NGOs and international institutions against the hasty sentencing of Mr. Khemais Chammari, internationally renowned as an honest and courageous defender of human rights in his country and in the Mediterranean world.

19. Mr. AHDEROM (Baha'i International Community) denounced the religious discrimination of which the Baha'is were victims in Iran. A large number of official documents and reports, including reports from other United Nations bodies, documented the brutal persecution to which they were subjected, taking the form of executions, murders, disappearances and torture, and extending into every aspect of their private and social lives. The Iranian authorities were engaged in a deliberate policy aimed at preventing any socio-economic development of the Baha'i community and depriving it of its most fundamental rights; they persisted in considering it as illegitimate under Islamic law and accusing it of subversive political acts, without any proof whatsoever.

20. The Special Rapporteur on religious intolerance, in the report submitted to the Commission on Human Rights following his recent visit to Iran (E/CN.4/1996/95 and Add.1 and 2), had called on the Iranian Government to reinstate all the rights of the Baha'is, allow them to engage fully in their religious activities, return all the community and personal property that had been confiscated from them and reconstruct the places of worship that had been destroyed, or at least provide compensation. The Special Rapporteur had also asked the Government to review or set aside the death sentences passed on Baha'is and to promulgate amnesties or any other appropriate measures to prevent the enforcement of the penalties imposed.

21. The Iranian authorities still fell short of compliance with their international commitments, and the situation of the Baha'is, the largest religious minority in Iran, remained precarious. The international Baha'i community hoped that the Sub-Commission, which had been the first United Nations body to come to their defence, would reiterate its concern about their situation, condemn the violations perpetrated against them in Iran and again request that the Islamic Republic of Iran should guarantee them religious freedom and full emancipation.

22. Mr. LIEM SOCI LIONG (Liberation) drew attention to another bloody episode in the history of human rights violations in Indonesia, namely, the brutal attack launched by Indonesian security forces against the Jakarta headquarters of the Indonesian Democratic Party (PDI) on 27 July 1996, which had left 40 innocent victims. As during earlier massacres by soldiers, such as those in Dili in November 1991 and in Tanjung Priok in September 1984, which had still not been properly investigated, the Indonesian authorities were clearly underestimating the number of victims, and there was good reason to fear that what had happened elsewhere might happen in Jakarta: the elimination of witnesses, stage-managing of trials aimed at blaming the victims, and ill-treatment of detainees in order to extract false testimony from them. Numerous arrests had already taken place and police raids carried out against the headquarters of democratic organizations and the homes of their leaders.

23. His organization urged the Sub-Commission to demand the immediate and unconditional release of all activists who had been arrested, such as trade union leader Mocktar Pakpahan, whose only sin was to struggle for democracy

and human rights. The attack against the PDI had become a national affair that concerned the entire democratic movement, which was growing in Indonesia and was seeking to put an end to more than 30 years of a military dictatorship notorious for its grave violations of the human rights of the population.

24. The Sub-Commission should heed the demands of those groups, which were demanding the restoration of freedom of association, which existed in name only, and of freedom of expression, which was severely curbed. Other fundamental rights and freedoms, such as freedom of movement and the right not to be subjected to torture or arbitrarily detained, were constantly being trampled. The United Nations human rights mechanisms should be applied with great urgency in Indonesia. The Special Rapporteur on extrajudicial executions should include the latest military brutality in his investigations, and the Working Group on Arbitrary Detention should conduct a special inquiry into the recent wave of arrests.

25. Mr. JACQUES (International Service for Human Rights) said that on 17 July 1996, Mr. Khemais Chammari, a member of his organization's Executive Council who had played a key role in the founding of the Arab Institute for Human Rights and the activities of the Tunisian Human Rights League, had been sentenced to five years in prison for "violating the confidentiality of examination proceedings, endangering the security of the State". He was alleged to have sent certain confidential documents to a Belgian lawyer on the proceedings against Mr. Moada, President of the Democratic Socialist Movement, who had been sentenced on 29 February 1996 to 11 years in prison for "endangering the security of the State". Mr. Chammari had told the Inter-Parliamentary Commission that the case had been staged in order to damage his reputation.

26. Since the initiation of the legal and police proceedings against Mr. Chammari in October 1995, his organization had been shocked by the harassment to which he and his wife were being subjected, by the lack of respect for the principle of presumption of innocence and by the violation by the Tunisian authorities themselves of the confidentiality of the proceedings. The pressure on him and his family had mounted right up until his incarceration on 18 May 1996.

27. Since that time, his organization, along with other NGOs, had had to step up their efforts to obtain better conditions of detention for Mr. Chammari, whose health was unfortunately fragile. He urged the Sub-Commission to intervene firmly with the Tunisian authorities, since the acts against Mr. Chammari risked spreading to other persons and institutions that constituted the foundations of every democratic society, namely, human rights organizations, parliamentary institutions and the Judiciary.

28. Mr. KEALII GORA (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities), representing an indigenous Hawaiian organization, Ka Lahui Hawai'i, said that the United States Government had undertaken to hold a plebiscite in Hawaii from 1 July to 15 August 1996 on the issue of sovereignty, which was intended to curtail the rights of Hawaiians over their lands and resources, rights which had none the less been recognized by a law, the Apology Bill, adopted by the United States Congress in 1993. His organization had joined a coalition of

Hawaiian groups to oppose the plebiscite because it was a State-sponsored attempt to deny Hawaiians their right to self-determination. Furthermore, the manner in which the vote was being conducted was not, according to a delegation of the Unrepresented Nations and Peoples' Organization (UNPO), in accordance with international standards for a free and informed choice, which were also adhered to by the United States. UNPO believed that, before voting, the electorate should be informed through educational programmes conducted by native Hawaiian organizations on all the options for sovereignty and should have the opportunity to reach a consensus on the process for exercising their right to self-determination. His organization demanded that the United States Government and the State of Hawaii should stop the plebiscite and implement the recommendations of the UNPO mission.

29. Mrs. BAGOZZI (World Organization against Torture) said that her organization was deeply concerned about the numerous cases of arbitrary detention, torture and summary executions carried out in Colombia during the past four months by guerrillas, paramilitary groups, the police and the military, with the majority of perpetrators enjoying immunity, while human rights activists were being prosecuted for voicing their discontent. Her organization called on the Sub-Commission to recommend the immediate establishment of a permanent United Nations office in Colombia to investigate all reports of human rights violations.

30. The phenomenon of impunity had also been encouraging grave abuses in Mexico against innocent villagers and landless indigenous populations by the police and the army as well as by private police groups financed by landowners. The Mexican Government, through its Permanent Representative in Geneva, had pledged to address the problem. The Sub-Commission should invite the Government of Mexico to take steps to educate members of the army and the police and to settle peacefully the disputes between the different social sectors in the rural areas.

31. With regard to Syria, she welcomed the release of a large number of prisoners of conscience. However, hundreds of persons were still being detained illegally, tortured and even summarily executed. She urged the Sub-Commission to recommend that the Syrian Government should account for past and present human rights violations, apply the necessary measures to end repression and abuse of authority, and compensate all the victims.

32. Turning to Western Sahara, she said that while it was true that the number of arbitrary and illegal detentions had fallen, there were allegedly 600 persons who were still missing, some since the 1970s. The maintenance of law and order in the territory should be placed in the hands of an independent and impartial third party until such time as a free, fair and impartial referendum could be held in accordance with Commission on Human Rights resolution 1996/6.

33. In East Timor, the Indonesian Army would continue to violate the human rights of the population as long as the East Timorese were deprived of the right to choose their own Government. The Sub-Commission should recommend that all parties should step up their efforts to achieve an outcome that would allow the East Timorese to determine their own future, within the shortest possible time.

34. With respect to the Great Lakes region of Africa, a conference should be organized between all the parties in the region in order to forge a national reconciliation based on the punishment of the perpetrators of the massacres and to create the basis for a new constitutional system able to guarantee the democratic exercise of power by a majority as well as full respect for the rights of minorities.

35. Mrs. RISHMAWI (International Commission of Jurists) said that, in Algeria, dozens of individuals continued to be killed or "disappeared" every month by both the Government and armed groups. She urged the Algerian Government to investigate reports that human rights lawyer Rachid Mesli, who had been kidnapped on 31 July 1996, was being held by military security.

36. In Burundi, where large numbers of civilians had been massacred, preventive action should be strengthened, for example by increasing the number of human rights monitors.

37. Despite the cease-fire in Chechnya, the Russian Army continued its attacks. The civilian victims numbered in the thousands. While 2 Russian soldiers had recently been arrested on suspicion of murdering 13 civilians in Grozny, most of the crimes committed by the Russian troops remained unpunished. Her organization called on both parties to the conflict to comply with international human rights law and humanitarian law. The Sub-Commission should recommend to the Commission the appointment of a special rapporteur to ensure the close monitoring of the human rights situation in Chechnya.

38. With regard to Colombia, where the perpetrators of torture, enforced disappearances and summary executions enjoyed almost total impunity, she called on the Sub-Commission to urge the parties to establish without delay a permanent office of the High Commissioner for Human Rights, as requested in a statement by the Chairman of the Commission at its previous session.

39. The campaign being waged by the Turkish Government against the Kurdish Workers Party (PKK) was leading to the destruction of entire villages and the forced displacement of numerous civilians. In addition, lawyers defending persons before the State security courts for collaborating with the PKK were being arrested, tortured, sentenced and imprisoned. Access to south-eastern Turkey was denied to the International Committee of the Red Cross (ICRC) and the Office of the United Nations High Commissioner for Refugees (UNHCR).

40. In Tunisia, torture and illegal detention were widespread and several basic human rights were systematically violated. Her organization was particularly concerned by the treatment of human rights activists and opposition members of Parliament, such as Mr. Khemais Chammari, who had been sentenced to five years in prison following an unfair trial.

41. She called on the Sub-Commission to intercede with the Governments of all those countries in order to investigate the human rights violations committed and ensure that their perpetrators were punished.

42. Mr. MORIN (International Working Group for Indigenous Affairs), representing the Tribunal Komike, a human rights defence organization for indigenous Hawaiians, said that the "plebiscite" organized in Hawaii by the

Governments of the United States and of the State of Hawaii was intended to extinguish sovereignty of the Kanaka Maoli over their territory and was a violation of their human rights, land rights and right to self-determination. It was contrary to the provisions of the International Covenant on Civil and Political Rights and to the Apology Bill, which recognized the sovereignty of the Kanaka Maoli. The plebiscite had been organized in a fraudulent and anti-democratic fashion. A number of persons who were not Kanaka Maoli had been registered to vote, unknown to them, and the Hawaiian Sovereignty Elections Council, a State agency created to oversee the vote, had launched a major campaign aimed at encouraging a "yes" vote.

43. The Kanaka Maoli people, resolutely opposed to the plebiscite that had been organized in violation of all international instruments proclaiming the basic principle of the right of peoples to self-determination, demanded that the vote should be cancelled and that a decolonization process should be initiated under the supervision of the international community, in accordance with international law. The Tribunal Komike urged the Sub-Commission to take immediate action to enforce and protect the rights of the Kanaka Maoli people.

44. Mr. AHMAD (World Muslim Congress) said that since the previous session of the Sub-Commission, human rights violations, some of them amounting to genocide, had continued. In Chechnya, for example, the Russian army was bombing civilians and endeavouring to eliminate Chechen fighters. That was tantamount to genocide, since more than 40,000 Chechens had been killed out of a population of 1.3 million. The branding of Chechen people as criminals, bandits and terrorists by the Russian media was clear racism. What the Chechen people were claiming was the right to self-determination, recognized in international law and involving the freely expressed will of the people. To suppress any such claim, a foreign or colonial Power declared the occupied territory an integral part of itself, suppressed freedom of expression and installed a puppet administration in the territory, which it maintained in power through rigged elections. That was what was happening in Chechnya.

45. The right to self-determination was also being breached in Jammu and Kashmir, which had been invaded by India in 1947 and annexed after military occupation. India had no legal title to the State of Jammu and Kashmir, as had been confirmed by the Security Council and respected jurists. The consent of the people of Jammu and Kashmir to becoming part of India had never been obtained. The Indian occupation army, whose numbers were doubling with local militia men trained in India, continued to commit all kinds of atrocities and enjoyed total impunity. The situation was likely to be further exacerbated with the planned elections; 50,000 additional troops were being deployed to oversee the voting offices, and the manipulation of election results by the security forces was assured. The presence of neutral outside observers and international human rights organizations had been forbidden in Kashmir. It was "democracy" through intimidation and terror. The Kashmir leadership had unanimously decided not to take part in those elections, which would be used only to maintain the repressive regime and would force the elected representatives to swear by the Indian Constitution, tantamount to recognizing Kashmir as an integral part of India.

46. He called on the Sub-Commission to add to its programme of work consideration of the human rights situation in Jammu and Kashmir. The

Sub-Commission had the moral authority and the means to obtain the relevant information on human rights violations in Kashmir, which had been documented by various human rights organizations.

47. Mr. CHOEPHEL (Society for Threatened Peoples) said he regretted that, since the previous session of the Sub-Commission, no concrete steps had been taken to end violations of human rights, particularly in East Timor, Western Papua, the South Moluccas, the Chittagong hill tracts, Burma, Chechnya, Eastern Turkestan and Tibet.

48. He drew particular attention to the continuing violation of human rights and fundamental freedoms in Tibet. During the past few years, despite assurances from the Chinese Government, the Tibetan people had suffered a new wave of repression, as documented by the respective reports of the Special Rapporteurs on torture, religious intolerance and extrajudicial, summary or arbitrary executions, as well as the reports of the Working Groups on arbitrary detention and enforced or involuntary disappearances, which had been submitted to the fifty-second session of the Commission on Human Rights. The situation in Tibet had also recently been discussed by the Committee on the Rights of the Child and the Committee against Torture. Arbitrary detention, torture, unfair trials and the denial of religious freedom and freedom of assembly and speech were systematic. Chinese settlers were given priority in the right to work. Their presence in Tibet, together with the birth control policy imposed on the Tibetans by the Chinese authorities, were changing the demographic composition of Tibet at an alarming rate.

49. Three specific events that had taken place in Tibet over the past 18 months clearly illustrated what was going on there in terms of human rights. The first was the disappearance of a six-year-old boy, the eleventh Panchen Lama of Tibet, with his parents. After a long time of denial, the Chinese authorities had finally admitted to the Committee on the Rights of the Child that the boy was in their custody. The education and freedom of that child were vital to Buddhism and to Tibet's religious traditions, and his detention was proof of the lack of religious freedom in Tibet. Eight Tibetan monks were also in the hands of the Chinese authorities.

50. The second event was the complete ban on the display of photographs of the Dalai Lama in Tibet, ordered by the Chinese Government. On 7 May 1996, Chinese security personnel had opened fire at the Monastery of Gaden, firing on monks who were refusing to obey the order. It was reported that three of them had been killed, 30 were currently being detained and several hundred had to flee the monastery, which had been closed by the Chinese authorities. The Chinese policy was not new, since between 1959 and 1979 thousands of Tibetans had died for refusing to denounce the Dalai Lama, but the policy was now being applied openly and more forcefully. The Dalai Lama had always said he was willing to negotiate with the Chinese Government to save the Tibetan identity from total annihilation, without raising the subject of independence, but the Chinese authorities had never followed up on his proposals.

51. Thirdly, in 1995 the Chinese authorities had arrested and imprisoned an exiled Tibetan musician who had gone to Tibet to study traditional music. He called on the Chinese authorities to release that person unconditionally and without delay.

52. He urged the Sub-Commission to put the situation of human rights in Tibet on its agenda on the merits and to support the Tibetan people so that their unique cultural heritage could survive.

53. Mr. BENGOA said that the globalization of markets, in terms of the exchange of goods and communications, was the most striking phenomenon of the modern age. In the field of human rights, the process of internationalization had begun with the internationalization of horror during the Second World War, in the wake of which the universal principles of human rights had been developed. The subsequent adoption of the International Covenants and various other instruments had made progress possible. The next step in the process of the universalization of human rights should be to set up machinery that would enable those rights to be invoked ever more frequently before the courts.

54. It seemed urgently necessary to revise the mechanisms and systems for the international protection of human rights. The usefulness and relevance of those mechanisms were questionable in the face of the events in Rwanda and the conflicts in Burundi, Chechnya and Bosnia and Herzegovina. Those mechanisms had been shown to be impotent and paralysed by political considerations. At its previous session, by voting unanimously for resolution 1995/1, entitled "Expression of solidarity with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki", the Sub-Commission had itself recognized the ineffectiveness of the existing system of protection, the proof of which had been provided for world public opinion by seeing the "Blue Helmets" stand helplessly by and watch massacres in Bosnia and Herzegovina. What would happen if another conflict of that sort exploded in Europe, Latin America or another continent? How could respect for human rights be guaranteed? The Sub-Commission would have to endeavour to respond to all those questions, deliberately avoiding routine and sterile discussions under its agenda item 6.

55. The proceedings instituted by the International Criminal Tribunal in The Hague against the war criminals of the former Yugoslavia and Rwanda were an important step towards the effective realization of human rights at the international level, and the current debate on the creation of an international criminal court was another promising development. The authorities of those international judicial bodies should be clearly determined and their relation with the Security Council and its subsidiary bodies spelled out. The crucial question was whether the international tribunals would have any power over the military forces made available to the United Nations and over such international bodies as INTERPOL. The relation between those tribunals and the human rights bodies was another central issue in the debate. There was currently no connection between the activities carried out by the country rapporteurs and thematic rapporteurs and the work of those tribunals. Could not those rapporteurs, as well as the Sub-Commission and the Commission, function as a sort of examining magistrate when there was a presumption of international crime?

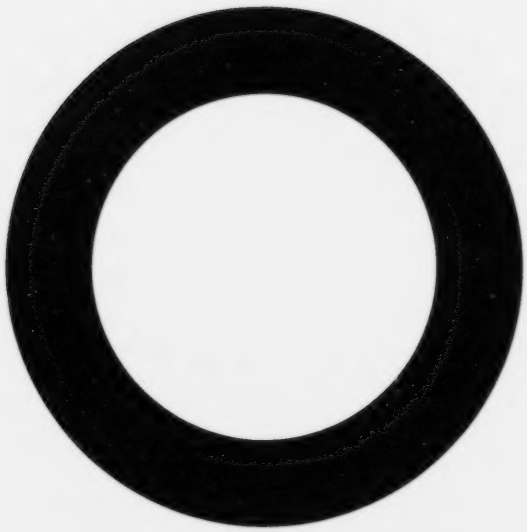
56. Certain crimes could neither be pardoned nor time-barred. None the less, in a number of regions, justice was muzzled by political considerations. In Latin America, fortunately, the era of the dictatorships had ended, and no State in the region still practised systematic violations of human rights. However, the cost of those political transitions was high, as the past had had

to be buried and a new page turned. The arbitrary granting of amnesty did not wipe out the crimes, and society's collective memory was profoundly scarred. Several questions arose. Was amnesty at the national level an obstacle to international legal proceedings? What sanctions could or should the international community take in future against a country which, for reasons of national interest, refused to extradite persons responsible for grave and systematic violations of human rights? In Latin America, although democracy had progressed as a form of government, national human rights legislation fell short of the standards now demanded at the international level. In many cases, the transition to democracy had been accompanied by concessions to Governments, weakening the power of justice instead of strengthening it.

57. Unfortunately the globalization of the economy and of communications did not bring with it greater respect for human rights. It was precisely for that reason that new instruments and machinery should be established that would enable the question of human rights to be adapted to new economic and social realities. The Sub-Commission should be a privileged forum for consideration at a high level of competence of the human rights situation in the world, and it was duly fulfilling its mandate. In its resolution 8 (XXIII) of 16 March 1967, the Commission on Human Rights had asked the Sub-Commission to "prepare, for the use of the Commission in its examination of that question, a report containing information on violations of human rights and fundamental freedoms from all available sources". At the previous session, several members had also mentioned the possibility of an annual global report, which would not only contain the text of resolutions adopted but also provide an assessment of the human rights situation in all the countries of the world. Such a report would confer a great deal of credibility on the Sub-Commission and enable the "selectivity" so often criticized in all international forums to be eliminated. Such a report could be prepared in advance by a technical team and considered item by item by the Sub-Commission during its session. It could then guide the Commission and the competent international tribunals in their decision-making and the adoption of political and criminal sanctions.

58. The future of the Sub-Commission would depend on its ability to analyse all issues from a new angle, particularly within the framework of agenda item 6, which was especially important. The establishment of a working group to propose concrete steps to make the Sub-Commission's mandate more specific by taking account of new developments such as the globalization and universalization of human rights should therefore be considered.

The meeting rose at 1 p.m.



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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 August 1996, at 3 p.m.

Chairman: Mr. EIDE

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

REVIEW OF THE WORK OF THE SUB-COMMISSION

* The summary record of the second part (closed) of the meeting appears as document E/CN.4/Sub.2/1996/SR.3 /Add.1.

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Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-13260 (E)

The meeting was called to order at 3.10 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1996/9 and 32)

1. Mr. SALMAN (Observer for Iraq) said that his country was the victim of political scheming by States which claimed to be protectors of human rights but ignored the devastating consequences of measures such as the economic sanctions that had been imposed on Iraq since 1990. Some members of the Security Council had distorted the purpose of sanctions as a short-term instrument for the settlement of international disputes and were using them instead to deprive peoples of their basic rights to food, medicine, education and work. When sanctions became a political weapon designed to starve people into submission, they violated the Charter of the United Nations and the fundamental principles of human rights. The Secretary-General had referred in the supplement to an Agenda for Peace (S/1995/1) to the difficulties raised by the Security Council's increased use of sanctions and their unintended effects. In the case of Iraq, those effects included a dramatic increase in the infant and child mortality ratios, widespread malnutrition and a high incidence of contagious diseases. Poverty had also led to an increase in the crime rate but the Iraqi Government had shown leniency under the circumstances, issuing a general amnesty in 1995. He urged the Sub-Commission to maintain its neutral stand with respect to the dangerous impact, particularly on vulnerable groups, of the continuing blockade, to make suggestions as to how its effects might be alleviated and to call for the lifting of the sanctions.

2. Mr. KHOURY (Observer for the Syrian Arab Republic) said that Israel's occupation and illegal annexation of the Golan Heights had been condemned as a violation of human rights in the Vienna Declaration and Programme of Action and in the most recent report (A/50/463) of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories. Israel exercised tight control over the natural and economic resources of the Golan Heights, particularly water, imposed heavy taxes on Arab agricultural produce and continued to confiscate Arab land for its settlements in violation of article 49 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War and article 85 of Protocol I Additional to the Geneva Conventions. The Special Committee's report concluded that the human rights situation in the occupied territories was deteriorating and condemned the repeated closures of the territories, collective punishment, the violent behaviour of Israeli settlers and other intolerable practices.

3. The Arab States meeting in Cairo had nevertheless proclaimed their continued commitment to the peace process based on Security Council resolutions 242 (1967), 338 (1973) and 425 (1978) and the principle of land for peace in their final statement issued on 23 July 1996, a commitment that had been echoed at other recent top-level meetings of the Organization of the Islamic Conference, the Non-Aligned Movement, the Organization of African

Unity, the European Union and the group of major industrialized countries. The policy being pursued by the new Israeli Government, however, would lead to renewed tensions in the region, returning it to the conditions prevailing prior to the Madrid Conference.

4. He urged the Sub-Commission to call on Israel to abide by its commitments, to respect the resolutions of the Security Council and international law, to halt settlement-building and to stop obstructing the peace process.

5. Mrs. MARKIDES (Observer for Cyprus) said that the European Commission on Human Rights had declared the fourth inter-State application of the Government of Cyprus against Turkey admissible on 29 June 1996. The complaints of her Government included unlawful detention of a large number of persons missing since 1974, the refusal of the Turkish authorities to allow more than 200,000 Greek Cypriot refugees to return home, illegal implantation of settlers from Turkey, inhuman treatment of Greek Cypriots still living in the occupied territory and the failure to hold free elections in that part of the country. The European Commission on Human Rights had already found Turkey responsible for the continued separation of families and other violations of the European Convention on Human Rights.

6. Recent statements by the Turkish Cypriot leader to the effect that the Greek Cypriot missing persons had been killed when the Turkish army had surrendered them to Turkish Cypriot "fighters" did not constitute the well-founded and convincing evidence that was required by the United Nations Committee on Missing Persons in Cyprus.

7. The few remaining Greek Cypriots and Maronites living in the occupied territory, 75 per cent of whom were elderly people, continued to be the target of racism, aggression, murder, looting and destruction of places of worship and profanation of cemeteries. The report of the Secretary-General on the humanitarian review conducted by the United Nations Peace-keeping Force in Cyprus (UNFICYP) (E/CN.4/1996/54) confirmed that the severe restrictions placed on those communities would eventually lead to their disappearance from the northern part of the island. Their living conditions had been described as "inhumane" by the Rapporteur on Cyprus of the Parliamentary Assembly of the Council of Europe.

8. Efforts to eradicate all traces of Cypriot history and transform the occupied territory into a Turkish province continued. The Turkish Cypriot community also suffered economically and socially from the presence of 35,000 Turkish troops and the influx of more than 80,000 settlers from Turkey.

9. Her Government would spare no effort to find a just and workable solution to the Cyprus problem and she trusted that the Sub-Commission would urge Turkey to show comparable good will and comply with the verdict of the international community.

10. Mr. ZAHRAN (Observer for Egypt) said that any just and lasting settlement in the Middle East must be based on Security Council resolutions 242 (1967) and 338 (1973) and on the principle of land for peace. He called on the

parties to the Israeli-Palestinian agreements to abide by their commitments and the agreed timetable without resorting to delaying tactics. In particular, he urged Israel to accelerate the redeployment of its forces from Hebron, to halt its settlement policy in the occupied territories and Gaza, to end the blockade, to refrain from reprisals, to return to the final status negotiations with the Palestinians and to enter talks with Lebanon and the Syrian Arab Republic.

11. General elections were due to be held in Bosnia and Herzegovina on 14 September under the General Framework Agreement for Peace in Bosnia and Herzegovina (the "Dayton Agreement"). The Sub-Commission should play its part in ensuring that the elections were held under the best possible conditions. That would require, inter alia, the arrest of war criminals and their subsequent trial by the International Criminal Tribunal for the Former Yugoslavia, facilitating the return of displaced persons to their homes and protecting human rights and fundamental freedoms in Bosnia and Herzegovina.

12. His Government was closely following the tragic developments in the Great Lakes Region of Africa, where more than half a million people had lost their lives in recent years and there were currently several hundred thousand displaced persons. The situation in Burundi was particularly alarming. He urged the Organization of African Unity, the United Nations and the countries concerned to do their utmost to contain the crisis and to work towards peace and mutual understanding among all the peoples of the region. Those who had committed crimes against humanity must be brought to justice before the International Criminal Tribunal for Rwanda. He commended the United Nations High Commissioner for Refugees and the Centre for Human Rights on their tireless efforts to improve the situation in Central Africa.

13. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said that although her organization appreciated the efforts of the Government of Sri Lanka to find a political solution to the ethnic conflict in the country, it was deeply concerned about reports of grave violations of human rights and unwarranted use of government powers under the emergency regulations.

14. In May 1996, the Government of Sri Lanka had resorted to unacceptable tactics to break up a strike by staff of the Electricity Board, using the police and army personnel to raid the homes of employees and detaining their wives and mothers in their absence. Five workers were still on remand for alleged involvement in the strike.

15. The Government had also ignored pleas concerning the non-recognition of trade union rights by factory owners in the Investment Promotion Zones. Sri Lankan labour legislation and the tripartite policy on settlement of labour disputes were being flouted with impunity.

16. Her organization had also received reports of numerous arrests without due process, particularly of members of the Tamil community. The imposition of military censorship in the north and east of the country was undermining the freedom of the media.

17. She called on the Sub-Commission to urge the Government of Sri Lanka to respect its obligations under the International Covenants on Human Rights and to report to it and other relevant United Nations bodies on measures taken in that regard.

18. Mr. GARCIA (Pax Romana) said that since the Zapatista rising in 1994 human rights had been persistently and massively violated in the Mexican state of Chiapas, with continuing impunity for the paramilitary groups that perpetrated the violations. The situation was particularly bad in the municipalities of Chilon and Bachajon, where many cases of beatings, murder and arson had gone unpunished. Despite much evidence, the State Government still refused to acknowledge the existence of paramilitary groups, which were especially active in indigenous areas, where disputes over land frequently occurred and resulted in violent action by large landowners. The provisions on land ownership included in the peace agreements signed in February 1996 had not yet been implemented, and post-electoral clashes between supporters of the Democratic Revolution Party and the Institutional Revolutionary Party were taking place in 10 municipalities.

19. Pax Romana therefore requested the Sub-Commission to recommend to all its thematic special rapporteurs and to all its working groups that they should pay special attention to Chiapas and to Mexico in general in their reports and to recommend to the Mexican Government that it should take decisive action to protect the rule of law and respect for human rights throughout the country, especially in Chiapas, and give prompt effect to the rights established in the legislation relating to dialogue, conciliation and an honourable worthy peace in Chiapas.

20. Mr. BOSSUYT said he wished to confine his opening statement to the issue of Burundi. The assassination of President Melchior Ndadaye in October 1993 had sparked off a wave of massacres of Tutsis in which leaders of the main Hutu political party had allegedly been implicated. The Tutsi-dominated Burundi army had retaliated by massacring thousands of Hutus. The failure of the international community to respond to those events had given the green light to those already bent on genocide in neighbouring Rwanda. The report of the international committee of experts entrusted with the task of establishing responsibility for the massacres had finally reached the Security Council only the previous week - almost three years after the events. That report must not go unheeded: if peaceful coexistence between the two ethnic groups was to be restored, those shown to be implicated in the assassination and the ensuing massacres must be punished and barred from public office forthwith, regardless of their rank or ethnic allegiance.

21. Since 1993 both groups had increasingly been the victims of a process of "creeping genocide". The National Convention convened following the death of President Ntaryamira in April 1994 had come up with a power-sharing agreement, appointing a Hutu president and a Tutsi prime minister. Meanwhile, however, Léonard Nyangoma, a former Minister of the Interior, had set up a Hutu opposition movement, the National Council for the Defence of Democracy (CNDD), whose military wing was waging a campaign of indiscriminate terror, aided by the interahamwe who had perpetrated the genocide of the Tutsi minority in Rwanda.

22. In June 1996 an international intervention force had been established under the auspices of former President Nyerere of Tanzania. Unfortunately, the mandate of that force was far from clear; and, in the absence of agreement among the political forces within Burundi, the prospect of foreign intervention had brought down the Government, whose President had taken refuge in the United States embassy a fortnight previously, with former President Buyoya stepping in as Acting President. With the collapse of that first attempt to democratize Burundi's institutions, prospects for a return to calm looked bleak. On his third visit to Burundi the previous month, the Commission's country rapporteur, Mr. Sérgio Pinheiro, had found the situation to be untenable. For at least two years, informed sources had warned that genocide on an unprecedented scale was imminent. It was as yet far from clear which ethnic group would bear the brunt; however, the pattern of events in Rwanda - which, incidentally, had still to be condemned by the international community - together with the alliance allegedly forged between the CNDD and the Rwandese interahamwe, suggested that the Tutsi minority was the more likely victim.

23. While favouring the establishment of true democracy and respect for human rights in Burundi, he did not think that economic sanctions were the best means of attaining those goals. Indeed, sanctions might actually precipitate the genocide. The virtually equal representation of Hutus and Tutsis in the new Government formed on 2 August 1996 was an encouraging sign; what counted, however, was that Government's actions. It must try to bring about peaceful coexistence between the two ethnic groups in a climate of security, and must ensure that the army played its proper role in that process, even when confronted with paramilitary groups that did not abide by international humanitarian law. Success in those tasks could not be taken for granted. However, particularly in view of the new President's previous track record, there was no reason to suppose that it would fare any worse than its predecessor. The international community must now spare no effort to promote democracy and human rights in Burundi; and the best way to secure those goals would be to dissipate fears of an imminent genocide.

Statements equivalent to a right of reply

24. Mr. HOCINE (Observer for Algeria) expressed surprise at certain comments made by the observer for the International Commission of Jurists (ICJ). In 1993, the ICJ had informed the Sub-Commission that the Algerian Constitution had been suspended, but that had not been true. Moreover, at the previous meeting of the Sub-Commission at its current session the ICJ had made further unfounded statements about Algeria. Everyone concerned would certainly have benefited if the ICJ had taken up his Government's invitation to send a mission to Algeria and had waited for an answer to its inquiry regarding the lawyer referred to at the previous meeting.

25. Mr. MUÑOZ LEDO (Observer for Mexico), referring to the statement made at the previous meeting by the representative of the World Organization against Torture (WOAT), said that in any State investigations were carried out by the competent authorities before charges were brought against the perpetrators of acts classified as offences. The Government of Mexico had taken up the requests for information made by WOAT and had notified it of the judicial

investigations. It was therefore strange that WOAT should have acted before the results were known and should have concluded that impunity existed in Mexico.

26. In 1995 several NGOs had complained to the Sub-Commission about the events of June 1995 in the municipality of Aguas Blancas, in the State of Guerrero. Since then criminal proceedings had been brought against 4 former civil servants and 20 policemen, and on 27 February 1996 the Federal Government had requested the Federal Supreme Court to follow up the investigations of the killings that had taken place on 28 June 1995. Subsequently, the Governor of the State of Guerrero had had to resign.

27. The investigations concerning the discovery of weapons reserved for the exclusive use of the armed forces had been carried out in strict compliance with the law. Nothing more had been found since 16 July, and over the past month there had been a substantial fall in the crime rate in the areas concerned.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3)

28. Mr. WEISSBRODT noted that since its establishment the Sub-Commission had played a significant role in drafting and inspiring human rights treaties and other instruments, in developing new procedures for implementing human rights standards, in preparing comprehensive studies on critical human rights issues, and in monitoring the protection of human rights in specific situations. Its accomplishments were many, and the Sub-Commission had achieved as much as it could using its previous approaches. However, the time had come to pursue new directions.

29. In standard-setting, the Sub-Commission had made significant contributions to a wide range of international instruments, but it was questionable whether that role could continue in the same way. Partially because of the work done by the Sub-Commission, human rights had become the most comprehensively codified domain of international law, and as compared with the situation 10, 20, 30 or 50 years previously there was now much less need for new human rights standards. The emphasis had shifted to the need for the implementation of human rights norms at the national, regional and international levels. In fact, with some exceptions, the Sub-Commission's most recent proposals for standard-setting had not met with approval from the Commission on Human Rights, which was not capable of handling a steady flow or several proposals for standard-setting each year. The Commission already had five working groups studying standards and it could not manage any more at the present time. Further, the General Assembly, in its resolution 41/120, had sought to limit the number and to increase the quality of new human rights standards.

30. Accordingly, the Sub-Commission should exercise self-restraint. First, it should build on its previous standard-setting and ensure that existing standards were put into practice. Second, if there was a particular need for standard-setting, the Sub-Commission should follow the guidelines in General Assembly resolution 41/120 and do as thorough a job of drafting as it could so as to save the Commission some effort. Third, the Sub-Commission should try to identify needs for new standards in the context of existing

norms, including recognition of duplications, overlaps and the needs for greater coordination. Fourth, the Sub-Commission or the Commission might need to develop a queuing system for standard-setting work.

31. The Sub-Commission had also played an important role in developing techniques for the implementation of international human rights standards, especially through the initiation of thematic procedures for stopping human rights violations. The limits of that technique were, however, being approached. As each thematic procedure had been established, the Commission had devoted proportionately less time and attention to each of the reports of the thematic working groups and special rapporteurs or representatives. The staffing for thematic procedures had been stretched to breaking point. With less attention and less staffing the thematic procedures had a diminished capacity to fulfil their very important tasks. So once again the Sub-Commission must exercise restraint in recommending the establishment of new thematic procedures. Instead, it should focus its energies on improving the existing procedures.

32. The Sub-Commission had produced path-breaking studies on a broad range of human rights issues. Such studies often had important and useful results. Nevertheless, the Sub-Commission lacked a strategic approach for selecting topics for investigation. It had had a strategy in the early days of the human rights movement when there had been a real need for major standard-setting, but that thrust had been overcome by developments. The Sub-Commission had tended to select topics by following the particular interests of its members and by responding to the narrow lobbying of NGOs. It now needed a new sense of purpose so that it could fulfil the applied research function which it had historically pursued.

33. In choosing new studies the Sub-Commission should focus on assisting the six human rights treaty-monitoring bodies, which were so busy reviewing reports submitted by States parties and adjudicating complaints that they could not undertake the studies which would assist them in their work. The Sub-Commission could provide them with specific studies. For example, the Committee on the Elimination of Racial Discrimination had already asked the Sub-Commission for assistance in developing a programme for education against racial intolerance and was concerned that it had not been able to attract sufficient attention to the individual complaint procedure available under the relevant convention. In addition, the Committee on the Rights of the Child had already disseminated an informal document identifying a dozen issues which needed study. Similarly, the former Chairperson of the Committee on the Elimination of Discrimination against Women had informally suggested several areas which needed further study.

34. The Sub-Commission could also help to identify opportunities for coordination among United Nations entities. For example, if the Committee on the Rights of the Child perceived a need for a study of juvenile justice, the Sub-Commission could recommend how the Committee on the Rights of the Child might work with the Committee against Torture and the Crime Prevention and Criminal Justice Branch and could take into account the Sub-Commission's studies on the fair trial and detention of juveniles. It could also utilize the valuable information provided by NGOs to assist it in its research.

35. He was not suggesting that the Sub-Commission should drop everything it was presently doing and accept such a new approach to studies. Indeed, it should complete the work it had on its agenda and other tasks which had not yet received a tidy conclusion. However, it should also focus its work on new studies by asking the treaty bodies for suggestions as to studies which would help them in their work.

36. Reviewing human rights situations in various countries had become a significant part of the Sub-Commission's work, to such an extent that it had a lively debate pursuant to Economic and Social Council resolution 1235 (XLII) and adopted a number of resolutions relating to particular countries, as well as handling communications under the confidential procedure established by Economic and Social Council resolution 1503 (XLVIII). In addition, the working groups dealing with indigenous populations, contemporary forms of slavery and minorities monitored developments within their fields.

37. While the Sub-Commission played an important role in raising international concern about consistent patterns of serious human rights violations in several countries, unfortunately almost all its resolutions under the 1235 procedure were repetitions of Commission and General Assembly actions. In the present context it seemed important to avoid duplication in the light of constrained resources. Moreover, repetitive country resolutions tended to politicize the Sub-Commission and to turn it into a smaller and less representative version of the Commission and the General Assembly.

38. One significant contribution that the Sub-Commission could make in reviewing country situations was to draw attention to new issues which occurred or came to light after the Commission adjourned. Also, the independence of the Sub-Commission's members made it possible for it to identify serious human rights problems which the Governments represented in the Commission might be less willing to tackle. A more efficient and effective allocation of responsibility would be for the Sub-Commission to focus on those situations which had received insufficient attention from other United Nations bodies. For that purpose, the Sub-Commission should continue to recognize the contributions made by NGOs in helping to identify those countries which had new or previously unaddressed situations. As a minimum requirement the Sub-Commission should consider adopting a guideline which limited repetitive country resolutions under Economic and Social Council resolution 1235 (XLII) to those situations that were not on the agendas of the Commission or the General Assembly. It might also take action on countries already before the Commission and General Assembly if there were important new developments. Such work should not, however, allow the Sub-Commission to be used as a forum in which Governments criticized one another. Governmental criticisms, if they were appropriate at all, should be presented in the Commission and the General Assembly rather than in the Sub-Commission.

The public part of the meeting rose at 4.55 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 7 August 1996, at 10 a.m.

Chairman: Mr. EIDE

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ELECTION OF OFFICERS (continued)

ORGANIZATION OF WORK

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GE.96-13283 (E)

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

The meeting was called to order at 10.10 a.m.

ELECTION OF OFFICERS (agenda item 1) (continued)

1. The CHAIRMAN invited the Sub-Commission to elect the third Vice-Chairman for its forty-eighth session.

2. Mr. ALFONSO MARTINEZ, speaking on behalf of the Latin American Group, nominated Mr. Fix Zamudio.

3. Mr. Fix Zamudio was elected Vice-Chairman by acclamation.

ORGANIZATION OF WORK

4. The CHAIRMAN informed the Sub-Commission that the experts of the Working Group on the Administration of Justice and the Question of Compensation appointed by the various regional groups were as follows: Mr. Chernichenko (Eastern Europe), Mr. Guissé (Africa), Mr. Yong Park (Asia) and Mr. Diaz Uribe (Latin America). He reminded the Sub-Commission that any experts wishing to do so could participate in the work of the Working Group, which was chaired by Mr. Joinet.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1996/9, E/CN.4/Sub.2/1996/32 and E/CN.4/Sub.2/1996/NGO/3)

5. Mr. GADIRY DIALLO (International Federation of Human Rights (IFHR)) said that, in Turkey, there had been an alarming increase in the number of arrests of journalists, deaths in custody, deaths as a result of torture in custody, extrajudicial executions, burned or evacuated villages and attacks on freedom of expression. Recently, 12 people had died after a hunger strike that they had begun in order to protest about their conditions of detention. Furthermore, 17 members of the Turkish Association for Human Rights (IHD) were currently on trial for having published an article entitled "Peace is the only solution". IFHR and IHD called on the Sub-Commission to recommend that the Commission should set up a mechanism to monitor human rights in Turkey.

6. In Tunisia, the human rights situation had seriously deteriorated over the previous year. On 23 May 1996, the Chairman of IFHR, who had wanted to meet with members of the Tunisian League for Human Rights, had been unceremoniously refused entry at the Tunis airport. IFHR believed that the only reason for sentencing Khémais Chemmari, one of its former Vice-Chairmen, to five years of imprisonment was to prevent him from exercising his right to freedom of opinion and expression, which was guaranteed by the international instruments to which Tunisia was a party. IFHR was demanding his immediate and unconditional release by the Tunisian authorities and requested the Sub-Commission to issue the strongest possible condemnation of human rights abuses in Tunisia.

7. With regard to Burundi, where the human rights situation was as urgent as ever, IFHR and the Burundian Human Rights League had condemned the military coup d'état of 25 July 1996 and were requesting the de facto authorities to restore the rule of law in Burundi without delay.

8. In Chad, summary executions, torture, disappearances and rape were still common practice, and the presidential elections of June and July 1996 had been compromised by numerous irregularities. IFHR and the Chadian Human Rights League urged the Sub-Commission to request the Commission to appoint a Special Rapporteur on the situation of human rights in that country.

9. In Nigeria, the persecution of opponents of the regime was continuing in an alarming fashion. IFHR and the Nigerian Civil Liberties Organization called on the Nigerian authorities to agree without delay to a visit from the Special Rapporteurs on summary executions and the independence of judges and lawyers. Those organizations also urged the Sub-Commission to recommend that the Commission on Human Rights should appoint a special rapporteur for that country at its next session.

10. In Colombia, the human rights situation had considerably worsened. It was high time that, in accordance with the Commission's decision at the previous session, an office of the High Commissioner for Human Rights was established in Colombia to assist the authorities and monitor the situation of human rights.

11. There were massive and systematic violations of human rights in the People's Republic of China, particularly with regard to freedom of opinion and expression. IFHR also wished to draw the Sub-Commission's attention to the anti-crime campaign, which had already resulted in over 1,000 executions for offences ranging from cattle theft to drug trafficking. IFHR and Human Rights in China called on the Sub-Commission to condemn human rights abuses in China.

12. Mrs. CARMEN (International Indian Treaty Council (IITC)) said that the right of indigenous peoples to freely practise their traditional religion, which could not be separated from their ties to the lands on which they had lived since time immemorial, was being seriously threatened, as was shown by a number of examples: the proposed forced relocation of the Dine and Hopi peoples in Arizona; the destruction of the sacred mountain of the Gross Ventre nation in Montana; the forced removal of the Ojibway people from the sacred lands in Ontario, Canada; the proposed construction of a giant telescope on Mount Graham, in Arizona, which was a sacred mountain for the Apache; the proposed construction of a nuclear waste dump in Ward Valley, California; the construction of military installations on the lands of the Mayan peoples in Guatemala and the recent arrest, in British Columbia, of the traditional Nuxalkmc spiritual leaders, who were protesting the destruction of their sacred lands by logging interests.

13. IITC requested the Sub-Commission to recognize the vital importance to indigenous peoples of their indissoluble ties between their traditional religion and their lands. It also asked the Sub-Commission to recommend that the Special Rapporteur on religious intolerance should visit the places where the right of indigenous peoples to practise their religion freely was being threatened.

14. Mr. ABDESSALAM (Europe-Third World Centre (CETIM)), President of the Association of the Families of Saharan Prisoners and Disappeared Persons (AFRAPREDESA), drew the Sub-Commission's attention to the human rights violations in Western Sahara. Of the 310 Saharans who had been released from Moroccan jails in 1991, only 6 had been able to leave Morocco and had done so in secret. The others were under house arrest and had received no compensation or medical care. Moreover, 526 Saharans were still reported disappeared.

15. Since the beginning of the cease-fire in September 1991, around a hundred Saharans had received heavy sentences for having demonstrated peacefully against the occupying forces. For example, on 20 May 1996, 10 young Saharans had been arrested in Boujdour for demonstrating in support of the Saharan Arab Democratic Republic. They had been tortured and, after an unfair trial, sentenced to long terms of imprisonment.

16. The occupying authorities were often involved in the murder of Saharan civilians. For example, Mouloud Sid Ahmed Alamin, aged 15, had been murdered by his teacher on 8 March 1996 in the Der Aidek school in Laâyoune.

17. It was to be hoped that Security Council resolution 1056 (1996), calling upon the parties to cooperate with the United Nations in the liberation of Saharan political prisoners and the exchange of prisoners of war, would be implemented. He also invited the Sub-Commission to appoint a commission responsible for investigating the situation of human rights in Western Sahara.

18. Mr. KILLI (World Federation of Democratic Youth) said that, over the past 12 years, the war between the Turkish armed forces and the Kurdish Workers' Party (PKK) had claimed over 25,000 victims, particularly among civilians. More than 2,000 Kurdish villages had been destroyed by the Turkish army as a result of the Government's scorched earth policy. Those responsible for the continuation of the conflict were not the Kurds, who were merely asserting their legitimate rights to self-determination and to be educated in their own language, but the Turkish authorities, which were refusing any peaceful political solution. The Turkish army was also torturing or eliminating Kurds who refused to serve as mercenaries in the special militia that it had created to combat the PKK. The army was attacking Kurdish villages and refugee camps in northern Iraq and was acting with the same impunity as during its occupation of Cyprus in 1974.

19. In Turkey, the conditions of detention of prisoners of war and of conscience, many of whom were of Kurdish origin or sympathizers with the Kurdish cause, were inhuman. Recently, 12 prisoners had died after a hunger strike they had undertaken to protest at their conditions of detention. It was only after heavy pressure from the international community that the Turkish Government had finally agreed to their demands.

20. His organization would point out that Turkey was required to respect the rights set out in the international instruments to which it was a party and it called on all parties to the conflict, particularly the Turkish Government, to arrive at a peaceful settlement of the Turkish question and fully respect human rights in that region.

21. Mr. HADJAR (Movement against Racism and for Friendship among Peoples (MRAP)) said that the Sub-Commission should investigate the causes of the worsening persecution of dissidents, particularly in the United States of America, Morocco, Tunisia, Nigeria and Zaire, and the collective persecution of entire peoples, as in East Timor, Palestine, Chechnya, Tibet, the Sahara and the Kurdish regions of Turkey, Iraq and Iran. The Commission must find ways of ending that disturbing aberration.

22. In Indonesia, the blood of the victims of human rights abuses had been shed almost every day for 30 years. The previous week, in downtown Jakarta, several dozen young men and women had been killed atrociously by members of the armed forces while guarding the headquarters of the Indonesian Democratic Party, whose President was Mrs. Megawati Sutarnoputri.

23. Furthermore, Indonesian Christians, particularly the Batak Protestants in northern Sumatra, were being persecuted and dozens of their churches had been set on fire. The Communion of Indonesian Churches had written to the President of the Republic in April 1996, but no steps had been taken to stop those persecutions. It was high time for the Sub-Commission, which had been regularly informed of those massacres and human rights violations for over 10 years, to take the initiative for them to be brought to a halt.

24. Mr. AL-JADIR (Arab Organization for Human Rights) said he would confine his comments to two extremely important aspects of human rights violations in the Arab countries: collective reprisals and the situation of human rights activists. Examples of collective reprisals were Israel's closure of Gaza and the activities of the Israeli forces in South Lebanon and in the western Bekaa, which had very serious consequences for the inhabitants of those regions, and the economic sanctions imposed on Iraq, which were causing immense suffering to the Iraqi population, as was shown by the infant mortality rate, which was the highest in the world. His organization had constantly called for the lifting of the economic blockade, as it had called on the Iraqi regime to work together and change the constitutional and legal systems.

25. With regard to the situation of human rights activists in Arab countries, he drew attention to the cases of three people. Mr. Iyad Al-Siraj, Chairman of the Independent Palestinian Human Rights Organization, who had been arrested for the third time in June before being released, but the case against him had not been closed; Mr. Khemais Chemmari, who had been arrested in October 1995 and recently sentenced to five years' imprisonment; and Mr. Mansour Al-Kikhia, member of the Executive Council of the Arab Human Rights Organization, who had disappeared in Cairo in December 1993. It was therefore essential for the Working Group on the Rights and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms to do everything possible to complete its draft and to submit it to the Commission on Human Rights for adoption.

26. Mrs. TREMMEL (International Human Rights Association of American Minorities) described the difficult situation of the Nuxalkmc nation, in the province of British Columbia, Canada. In addition to its non-violent stand against International Forest Products Limited (INTEFOR), the activities of

which were leading to the destruction of their natural resources and their sacred lands, the Nuxalkmc nation was opposed to the agreements that they were being pressured to accept under the pretext of economic development. On 26 September 1995, 22 of its members had been arrested, publicly humiliated and imprisoned for months in inhumane conditions with no regard for their most basic rights, after which they had been placed on probation and barred from returning to their lands. The International Human Rights Association of American Minorities requested the Sub-Commission to appoint a special rapporteur to examine the question of the violation of the Nuxalkmc and other indigenous peoples' right to freedom of religion, to request an immediate review of all procedures now being implemented against the rights of those peoples to their lands and to examine a situation which revealed a consistent pattern of gross and systematic human rights violations.

27. Mr. FOX (International Educational Development/Humanitarian Law Project (IED/HLP)) informed the Sub-Commission of the deterioration in the human rights situation in Mexico, described in three reports which had been submitted the previous July to the Inter-American Commission on Human Rights and were available to the members of the Sub-Commission. The Mexican Government's image, in the eyes of the international community, of a Government that respected human rights was belied by reality: summary executions, political assassinations, disappearances, torture and arbitrary detention were common practice. Several trends were particularly disturbing. The recent adoption of national security legislation that trampled underfoot previous constitutional guarantees and violated international law threatened to lead to a militarization of civil society, and there was widespread corruption of the police and security forces. People in farming areas faced constant violence and insecurity. There had been a massive increase during the past year in the harassment of, and death threats against, human rights activists. More and more documents revealed the continued lack of independence of the judiciary. Finally, the increasing militarization of some of the poorest regions of the country, under the pretext of fighting the traffic in drugs, had serious consequences for the people of those regions.

28. IED/HLP therefore called on the Sub-Commission to adopt a resolution expressing its concern at those increasingly numerous violations, to urge t. : Mexican Government to take immediate steps to put an end to those violations and bring the perpetrators to justice, and to request the Commission on Human Rights to appoint a special rapporteur or independent expert to investigate and report on the serious situation in Mexico.

29. Mr. SHIOKAWA (International Association of Democratic Lawyers) called the Sub-Commission's attention to the especially intolerable violations of the human rights of foreign workers in Japan. The rise in the number of foreign workers in Japan over the past few years had been accompanied by flagrant violations of their rights. There was a situation of virtual lawlessness with regard to such workers, who must tolerate minimum wages, unjust dismissals and no compensation for accidents in the workplace. The treatment of illegal foreign residents, of whom there had been about 280,000 in 1994, was particularly disturbing, since they were at the mercy of their employers. He went on to describe briefly the case of workers from Sri Lanka, Iran, Peru,

the Philippines and Brazil who were exploited in those ways and expressed the hope that the Japanese Government would take immediate steps to prevent such violations.

30. Mr. HAMAD (International Working Group for Indigenous Affairs) said that, although the fundamental human rights were guaranteed by the Constitution in Zanzibar, there was no effective enjoyment of those rights. In that regard, a series of violations and abuses had been committed by the present regime in Zanzibar, particularly against people who opposed the regime: discrimination against the inhabitants of the two islands on the grounds of differences in political ideology, intimidation, threats and torture, unlawful arrests and detentions, unfounded accusations, demolition of homes, denial of fair access to the media, attacks on freedom of association and expression and violation of the principle of equality under the law. Nevertheless, the opposition would continue to fight to defend its rights, and he hoped that the Sub-Commission would express its concern about that situation.

31. Ms. GRAF (International League for the Rights and Liberation of Peoples) mentioned the case of three countries where the human rights situation continued to be disturbing. The first was Colombia, where murders, threats, enforced disappearance, torture, and arbitrary detention were still being used against dissidents and human rights activists. Not only had the Colombian Government failed to act on the proposal to set up a permanent office of the High Commissioner for Human Rights, but three new events that had taken place since the previous session of the Commission were disturbing for the future: President Samper's decision to place before Parliament a bill to bring in the death penalty, the introduction of "special public order zones", controlled by the armed forces, and a bill to modify article 220 of the Constitution with a view to restricting the activities of public non-governmental organizations monitoring respect for human rights.

32. The second case was that of Indonesia, where there was total disregard for the human rights of workers. The massive strikes and demonstrations which had taken place in Jakarta and Surabaya over the past few months had been brutally suppressed. The International League for the Rights and Liberation of Peoples demanded the unconditional release of the union activists arrested as a result of those events, in particular Mochtar Papkpahan, a union leader who was accused of subversive activities and might receive the death penalty, since they had merely been exercising their right to freedom of expression and association.

33. Lastly, progress towards a solution to the conflict in Western Sahara was at a standstill because the voter registration process for the referendum on self-determination had been suspended. All contact between Saharan citizens and Blue Helmets was forbidden. Hundreds of Saharans were being deported to Morocco, while the Moroccan Government was settling many Moroccan colonists in the occupied territories of Western Sahara so that they could vote in the referendum. The Sub-Commission must ensure that the Security Council fulfilled its commitments.

34. Mr. KALIMBA (Survival International Limited) spoke of the extremely precarious situation of the Batwas/Pygmies in Rwanda who, although they had

been the first to inhabit the country, were at present totally marginalized and deprived of their land, means of production, government representation and opportunities for education and employment. They could not play any role in the conduct of public affairs, had no religious representative, and the name of their ethnic group no longer appeared on identity cards. Subjugated by the Bahutus and Batutsis, who were in the majority, and left to themselves in utter destitution, they were exploited and humiliated and had lost their share of innocent victims to war: 10,000 of them had died in the war of April 1994, 10,000 more were refugees and 3,000 had been imprisoned. His organization called the attention of the Sub-Commission to the fate of those detainees, most of whom were certainly innocent, and urged it to help ensure that they were brought to trial in the near future and had the benefit of lawyers to defend them.

35. Mr. SEIXA (International Federation of Action by Christians for the Abolition of Torture (ACAT)) said he was a member of the Association of East Timorese Former Prisoners, which had been created in exile because, like all other independent associations, it was prohibited by the Indonesian occupiers of his own country. As a nurse working on the Indonesian military health team from 1975, the date of the invasion of East Timor by Indonesia, to 1978, he had seen many cases of torture, rape and execution of Timorese at Bacau Regional Hospital. He had personally received a death threat from the officer in charge of the hospital, to whom he had protested about such practices.

36. In 1983, talks had been held between the Indonesian army chiefs and the head of the Timorese resistance movement. When the Timorese resistants had refused to surrender, the Indonesians had retaliated by murdering thousands of men, women and children. He himself had been arrested in November 1983 and had survived only because, as administrative chief, he had become known to certain Australian members of parliament. During his imprisonment in the cells of the political police in Dili, where he was tortured, he had got to know many Timorese who had later "disappeared" one night. There had been at least 150 of them. In May 1984, he had been tried by a military court, which had sentenced him to 12 years' imprisonment. Three of his fellow prisoners had died soon after their release from prison in Jakarta as a result of the ill-treatment that they had received.

37. Although the suffering of the people of East Timor had been frequently reported to the Sub-Commission, the international community had not taken any effective steps to put an end to the abuses committed by the Indonesian Government. Were the rights of the Timorese people less important than those of the peoples of Kuwait or Bosnia just because they had been violated for over 20 years? Only recently, violence had been committed by the Indonesian armed forces against civilians in Aileu, Dili and Baucau; a number of people had been killed and hundreds of others arrested.

38. The Association of East Timorese Former Prisoners and the International Federation of ACAT urged the Sub-Commission to request the Indonesian authorities to invite the Working Groups on Arbitrary Detention and Enforced or Involuntary Disappearances to visit East Timor with a view to implementing

the UNHCR resolution of 1993 and acting on the statements made by the Chairman of the Commission on Human Rights in 1992, 1994, 1995 and 1996, which had remained a dead letter.

39. Mr. GOONTILLEKE (Observer for Sri Lanka) said that the Government of Sri Lanka continued to make the peace process initiated after the elections of August 1994 a high priority. Despite the attitude of the Liberation Tigers of Tamil Eelam (LTTE), the Government was still committed to working towards a peaceful solution to the conflict in the Northern and Eastern Provinces of Sri Lanka through deliberations within the Parliamentary Select Committee on Constitutional Reform.

40. Terrorism was not confined to any one State and no one State could combat alone, so he welcomed the measures taken by some members of the international community. Sri Lanka was also gratified to note that the international community had, albeit belatedly, focused its attention on the fund-raising efforts of terrorist organizations and the abuse of political asylum for that purpose.

41. Since the Sub-Commission's previous session acts of terrorism had escalated in Sri Lanka: an attack on an oil tank complex in Colombo in October 1995, the massacre of several hundred civilians in villages bordering the Northern and Eastern Provinces in September and October 1995 and in Eluvankulam in June 1996, the bombing of the Central Bank of Sri Lanka in Colombo in January 1996 and, during the same month, the bombing of a train, which had resulted in numerous victims. All of those acts had been carried out in order to cripple the country's economy and provoke the Sinhalese into attacking the Tamil minority living in the south, which would give the LTTE a pretext to continue its armed struggle. With the help of the millions of dollars that it extorted monthly from the Tamil diaspora abroad, the LTTE was able to wage a relentless war against the Sri Lankan people. Following the unilateral termination by the LTTE of the agreement on the cessation of hostilities on 18 April 1995, the Government had been forced to adopt an alternative strategy with a view to directly involving the Tamil population in the northern peninsula in the peace process. That goal had been achieved in May 1996, when the Sri Lankan security forces had liberated the Jaffna peninsula from the LTTE. The voluntary return of some 450,000 Tamil civilians to that region was proof of the community's confidence in the Government and the peace process.

42. With regard to the search for a political solution to the problems facing the Northern and Eastern Provinces, deliberations within the Parliamentary Select Committee on Constitutional Reform had made it possible to take an important step. The proposals submitted by the Government with a view to the devolution of power had generated wide debate in the media and among the general public, and the political parties were currently negotiating with a view to a consensus. It would then be possible for Parliament, and then the public, to adopt amendments to the Constitution at a referendum. Since the ongoing process must be accompanied by measures to resettle the people who had returned to the Jaffna peninsula and to reconstruct the region, the Government had established a special body and proposed a financial package for that purpose.

43. Among the important developments in the field of human rights since the Sub-Commission's previous session were the adoption by Parliament, on 10 July 1996, of a law establishing the Human Rights Commission of Sri Lanka and the steps taken with a view to Sri Lanka's accession to the Optional Protocol to the International Covenant on Civil and Political Rights. Furthermore, the three presidential commissions appointed to investigate disappearances were expected to submit their report to the President in the near future.

44. In conclusion, he reaffirmed his Government's commitment to the promotion and protection of human rights and to the search for a peaceful resolution of the conflict in the north and east of the country and the fight against the terrorism that had weakened the country for so many years.

45. Mr. ULUÇEVIK (Observer for Turkey) said that the Sub-Commission, by its nature, played an essential role in the proper functioning of the United Nations human rights system. Unfortunately, the rising aspirations to democracy throughout the world were facing serious challenges that boded ill for the future. The re-emergence of racism in certain parts of the world was alarming, and no country was immune from terrorism, which threatened the fundamental right to life, liberty and security of person on which all the other human rights and fundamental freedoms were founded. In order to defeat it, countries must demonstrate determination and unfailing cooperation, in which connection, he welcomed the recent high-level meetings in Sharm-el-Sheikh, Lyons and Paris. Like other countries afflicted by that scourge, Turkey had launched numerous appeals for the adoption of effective measures to eliminate it. Moreover, Turkey had played a very active role in the drafting of the resolutions on racism and terrorism that had been adopted in recent years by the General Assembly and the Commission on Human Rights. In that regard, Turkey hoped that the Sub-Commission would complete the working paper on the question of terrorism and human rights under its resolution 1994/18.

46. Turkey, a pluralist democracy based on respect for human rights and the rule of law, had been subject to a vicious terrorist campaign waged by the Kurdish Workers' Party (PKK), which had cost the lives of thousands of innocent civilians. Those terrorist acts were hindering progress towards the realization of human rights, as had been mentioned by several of the Commission's thematic rapporteurs. Terrorism could not be tolerated, regardless of the identity of the perpetrators and their motivations, and it was, indeed, ironic that some terrorists claimed to be acting in defence of human rights and made use of the United Nations human rights machinery for their abominable purposes. Despite the criticism of the Turkish Government, which served only to encourage the terrorists, the Government was determined to eradicate PKK terrorism. At the same time, Turkey was taking measures to better guarantee human rights: the Constitution had been amended to ensure greater political participation by various groups of society and their members, and article 8 of the Anti-Terrorism Act, which dealt with freedom of opinion and expression, had retroactive effect and had led to the release of 200 prisoners. Lastly, the Turkish Government renewed its invitation to the Commission's Special Rapporteur on the right to freedom of opinion and expression to visit Turkey.

47. Mr. GUISSE said that the progress made in the field of human rights was inadequate and, indeed, insignificant, despite the wide-ranging discussion each year under item 6 of the Sub-Commission's agenda. Although human rights were set forth and promoted as well as possible, they were increasingly devoid of meaning for most of the citizens of the world. The least respected right, at present, was the right to life, as was shown by the inter-ethnic massacres that had taken place in Rwanda and Burundi and in Bosnia and Herzegovina. In addition to those organized massacres, infanticide, the assassination of street children, summary executions and enforced disappearance were common practices that claimed thousands of victims throughout the world.

48. The armaments industries were the only ones that still flourished, and arms traffickers were the nouveaux riches of contemporary society. Increasingly sophisticated weapons of destruction were rarely used in the countries in which they were produced. The five Permanent Members of the Security Council provided 85 to 90 per cent of the arms used in the world, yet it was they who were responsible for ensuring the security of all.

49. The right to life was also made a mockery when entire populations were kept in a state of abysmal poverty. Economic imbalances between countries led to gradual extermination of the poor. Furthermore, by destroying ecosystems and violating the right of every individual to a healthy environment, polluting industries and those who trafficked in toxic wastes were also a serious threat to life. In such a situation, one could only conclude that those responsible were the international community, in its inefficiency, and States, locked into their egotism. The imposition by certain States of embargoes on vulnerable populations in the name of sanctions, as in Iraq, where thousands of children had died, also constituted a systematic violation of the right to life. In future, the international community should refrain from resorting to such sanctions.

50. The increasingly numerous economic and political refugees also lived in tragic conditions despite the adoption by the United Nations and regional organizations of conventions intended to protect them. Refugee camps had become concentration and extermination camps from which the international community averted its gaze.

51. Again, the inhuman conditions of detention in certain countries were the cause of a threat to the right to life. Detainees were dying in prisons by the thousands, with the complicity of the authorities. States should strictly apply the Standard Minimum Rules for the Treatment of Prisoners. All of those problems showed that the time had come to undertake a real reform of the international organizations to make them more effective in protecting human beings and their rights.

52. Mr. FAN Guoxiang said that the cause of human rights and fundamental freedoms had often been pleaded in national, bilateral and international forums and that the universal realization of those rights could not be achieved without taking into account national and regional particularities and differing historical, cultural and religious backgrounds.

53. Some people had established a link between the concept of human rights, the United States Declaration of Independence and the French Declaration of the Rights of Man and of the Citizen. A century before the French Revolution, the British Parliament had also adopted a Bill of Rights. Moreover, some historians said that the term "human rights" had first appeared in Dante's Divine Comedy. While they had all had an indelible impact on contemporary world history, they represented only one historical stage in the evolution of human rights, which had already existed in ancient Greece and under the Roman Empire. In China, too, 2,000 years ago, Confucious and other great philosophers had advocated a form of government in which the rights of the people would be respected.

54. In the first half of the twentieth century, the rise and fall of Fascism had reminded the world population of the crucial importance of promoting human rights and fundamental freedoms for all, without distinction as to race, colour, sex, language, religion, political or other opinions, national or social origin, property or birth. During the second half of the twentieth century, the collapse of colonialism had given birth to over a hundred independent nations, which were entitled to claim the right to self-determination and development. Thus, human rights and their materialization were the result of a long historical process and could not be dissociated from the social conditions and specific backgrounds in which they had appeared. Any static appreciation of the question would, therefore, be misleading.

55. He went on to sum up the various regional instruments to protect human rights and the bodies created to monitor implementation: in Europe, the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the implementation of which was monitored by the European Commission and the European Court of Human Rights, and the European Charter of 1961; in Latin America, the American Declaration of the Rights and Duties of Man of 1948, the American Convention on Human Rights of 1978, which was monitored by the Inter-American Commission and the Inter-American Court and, in 1993, the Final Declaration of San José, which emphasized the importance of international cooperation in guaranteeing the exercise of all human rights and, in particular, the right to development; in Africa, the African Charter on Human and Peoples' Rights of 1981 and the Tunis Declaration of 1991, which emphasized that there was no ready-made model for human rights, since the historical and cultural realities of each nation could not be disregarded, and that political freedom was precarious unless it was accompanied by respect for economic, social and cultural rights; and, finally, in Asia, the Bangkok Declaration of 1993, which emphasized the principles of respect for national sovereignty and territorial integrity, non-interference in the internal affairs of States and the non-use of human rights as an instrument of political pressure, and also stressed the need to take national and regional specificities into account in setting international norms in the field of human rights.

56. In every part of the world, human rights were not an abstract and uniform idea but rather a reflection of the social concepts, philosophies, cultures, religions and ways of life of different communities. In Western tradition, the rights of individuals were the basis for human rights, although no one asserted that those rights could not be limited in order to guarantee

the rights of others and in the interests of all. However, the idea of collective human rights was of growing importance, particularly in developing countries. The historical experience and traditions of those countries were leading them to realize the crucial value of the right to independence and the right to development as collective rights, the enjoyment of which was an indispensable requirement for the promotion of personal rights. In those countries, individuals were encouraged to make a greater contribution to the common welfare, even, if necessary, at the expense of their own interests, since they also had a duty to society. Oriental tradition tended to give more weight to the individual's obligation to the family, the community and the nation, and the idea of absolute and unlimited personal freedom was not tolerated either by law or by morals. Whereas Western scholars were of the opinion that democracy and political freedom would pave the way for economic development, experts from the developing countries believed that economic progress and social harmony were the conditions for the realization of political and civil rights.

57. Democracy was an evolving process with many manifestations and expressions, but its very essence was the rule of the people. That basic principle was expressed in varying ways in the Constitutions of different countries, depending on the specific circumstances in which those countries had been born. Power could be vested in the people through periodic elections, which might be direct or indirect, according to their traditions, the size of their populations, and their economic and social levels. Political parties were organized to represent the interests and opinions of groups and communities and, in the opinion of some scholars, pluralism was crucial to a democratic political life. Other experts, including himself, did not share that view and noted that those "pluralist" systems were often dominated by two large parties that took turns in office and offered the people no real choice. The supervision of government by the people was another component of democracy and, there again, the solution varied from nation to nation. Some countries chose a system where independent legislative, executive and judicial powers co-existed, while others preferred systems under which, for example, the executive and judicial bodies were responsible to an elected Parliament.

58. The coordination and regulation of the interests of different communities could not be neglected. Some countries considered that the best solution in that regard was systematic vote-casting, while others felt that a more effective solution was to arrive at a consensus after repeated democratic consultations and necessary mutual concessions.

59. Some scholars felt that the role of a democratic government was, on the one hand, to protect the rights and interests of individuals and, on the other, to limit under the law, by punitive means when necessary, actions that were harmful to social stability and national security. The rule of law in a democratic society was a combination of protection, education, limitation and punishment. In the Western world, some made personal freedom the first priority, whereas oriental tradition associated freedom with discipline, rights with duties and self-respect with respect for others. In any case, the Government was legally responsible for respecting the common will and the interests of the people as a whole. In that regard, it was clear that a nation would support a government and leaders that were able to ensure social

progress, economic development and a higher standard of living, resolve conflicts among various groups to the satisfaction of the majority and deal with the problems and crises that posed a threat to public order and national security. It was on those bases that the value of a given model of democracy would ultimately be judged.

60. If the principles set forth in the Charter of the United Nations and the Universal Declaration of Human Rights were to be universally implemented, the specific characteristics of different countries and regions must be respected. Some, perhaps, were accustomed to passing judgement on human rights issues from an abstract and biased point of view, on the basis of the concept of human rights in their own region, without sufficient knowledge of the concepts of other countries and other regions. Some, who had goals other than the promotion of human rights, had distorted the idea of universality in order to impose supposedly universal standards on other countries through multilateral organizations. For example, they felt that they had the right to overthrow the government of a small nation and set up another by resorting to the use of armed force under the pretext of "humanitarian intervention" and the "restoration of democracy".

61. The world was no longer bipolar but increasingly "multi-polar", a fact which offered greater possibilities for creating conditions favourable to peace, development and the protection of human rights. However, the goal of the international community, and in particular the Sub-Commission, should be the true, genuine and impartial realization of human rights on the basis of international democratic pluralism.

62. Mr. EL-HAJJE requested that the full text of Mr. Fan Guoxiang's statement should be circulated to the members of the Sub-Commission.

63. Mr. BOSSUYT said he did not think that was necessary, since the members of the Sub-Commission had a summary record of the meeting. In that regard, he hoped that the practice of issuing summary records, which made it possible to gain a sense of the general import of the statements made during a session, would be continued. He also hoped that they would be made available more rapidly.

64. Mr. ALFONSO MARTINEZ said that it would none the less be useful to circulate the full text of all statements made by experts, since the summary records, by definition, did not reflect the entire discussion.

65. Mr. KHALIFA said it was no secret to anyone that significant changes in international relations had an impact on human rights and that the problems in that area were linked to world political and ideological struggles. Since the end of the cold war, the human rights situation had deteriorated, particularly with regard to the right to development. Admittedly, it was not always useful to draw up a complete list of massive human rights violations, but one could not fail to mention certain cases. For example, the atrocities committed in Srebrenica were a flagrant example of the potential degree of human savagery.

The responsibility for those horrors lay not only with the Bosnian Serbs, but also with the international community as a whole for allowing such events to take place. Some might have acted but had not done so because they lacked real political will. In another part of the world, but also in a region under United Nations protection, during the Cana massacre, those who had boasted of the extreme precision of their military attacks had been responsible for the deaths of over a hundred innocent people. The Israeli authorities had tried to justify that act by claiming that guerrillas were firing on Israel from a point near the Cana camp. Yet, even if that information was correct, how could the massacre of innocents be tolerated and should Israel not be asked what gave it the right to remain in South Lebanon?

66. Two general factors were the cause of the current human rights situation in the world. The first was globalization, which had eliminated all borders. Under such circumstances, if only one country, for example, the United States, which had emerged triumphant from the cold war, was capable of taking control, the result was a situation of economic, political and cultural hegemony. Nevertheless, as the Chinese Prime Minister had said, "if a single superpower seeks to impose its will, the world will become a very dangerous place". Absolute power corrupted and encouraged arbitrariness, even towards the allies of the one in power. The world economy was now characterized by the hegemony of the most powerful, and free trade, invoked by the proponents of globalization, in the end served the interests of only a few. For example, the United States, which had imposed an economic embargo on Cuba, Iran and Libya, was pressuring its European allies to do the same. But some of those European countries, and also China and Russia, were beginning to think that American hegemony could no longer be endured and were becoming formidable players on the political and economic scene.

67. The second factor was recolonization. Undeniably, Africa was, at present, a "lost continent". The problem, though long-standing, had not only started to be seen at the end of the cold war. When the first signs of Africa's disintegration had appeared, humanitarian assistance operations had been set up, trusteeships had been proposed for some countries, and elections had been organized under the watchful eye of foreign experts. African countries did, of course, need assistance, but that did not mean they wanted their resources to be depleted or for western countries to interfere in their domestic affairs. Africans must again resist the colonizers, undertake their own democratization and reconsider the borders that had emerged after colonization, without allowing their continent to be pillaged. History had shown that it was impossible for economies to develop in the shadow of foreign tanks and that the models of democracy that the colonizers had brought with them were no longer valid. In any case, foreign powers did not help African countries when it was not in their interests to do so, as was shown by the example of Liberia.

68. In the francophone African countries, France jealously guarded its economic privileges and had signed military cooperation agreements with a number of countries. Thus, in the Central African Republic, French forces had recently opened fire on demonstrators in Bangui, killing hundreds of people who were protesting at injustice and corruption.

69. Furthermore, there had been unprecedented massacres in Rwanda and Burundi as a result of manoeuvres by which the former colonial powers had played some actors off against others. In that regard, it must be emphasized that conflicts did not occur only as a result of ethnic tensions; they were often provoked by warlords or mercenaries and even, at times, by semi-official western organizations supposedly responsible for training the police and armed forces. Assistance and rescue operations themselves could be a source of conflict if their neutrality was called into question. Clearly, the world had entered a period in which all the human rights achievements of the "golden age" of the cold war were being undone.

The meeting rose at 1.05 p.m.